

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
) 8:07CR147
vs.)
)
JAMES DEAN,)
)
Defendant.)

**PRELIMINARY ORDER
OF FORFEITURE**

NOW ON THIS 10th day of March, 2008, this matter comes on before the Court upon the United States' Motion for Issuance of Preliminary Order of Forfeiture. The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. The Defendant has entered into a Plea Agreement, whereby he has agreed to plead guilty to Counts I and II of said Superceding Indictment. Count I of said Indictment charges the Defendant with manufacturing, distributing or dispensing, or possessing with intent to manufacture, distribute or dispense 100 or more marijuana plants, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1). Count II of said Indictment charges the Defendant with using the following real property:

Residence of James R. Dean, locally known as 4951 S. 46th Avenue, Omaha, Nebraska, legally known as Lot 149, West L Street Acres Annex, an addition to the city of Omaha, as served, platted and recorded in Douglas County, Nebraska.

to facilitate the commission of the controlled substance violation and charges said real property is derived from proceeds obtained directly or indirectly as a result of the commission of the controlled substance violation.

2. By virtue of said plea of guilty, the Defendant forfeits his interest in the subject property, and the United States should be entitled to possession of said property, pursuant to 21 U.S.C., § 853.

3. The United States' Motion for Issuance of Preliminary Order of Forfeiture should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture is hereby sustained.

B. Based upon Count II of the Superceding Indictment and the Defendant's plea of guilty, the United States is hereby authorized to seize the following-described property:

Residence of James R. Dean, locally known as 4951 S. 46th Avenue, Omaha, Nebraska, legally known as Lot 149, West L Street Acres Annex, an addition to the city of Omaha, as served, platted and recorded in Douglas County, Nebraska.

C. The Defendant's interest in said property is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C., § 853(n)(1).

D. The aforementioned forfeited property is to be held by the United States in its secure custody and control.

E. Pursuant to 21 U.S.C., § 853(n)(1), the United States forthwith shall publish at least once for three successive weeks in a newspaper of general circulation, in the county where the subject property is situated, notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the property in such manner as the Attorney General may direct, and notice that any person, other than the Defendant, having or claiming a legal interest in any of the subject forfeited property must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E., above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the property, shall be

signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject property and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C., § 853(n), in which all interests will be addressed.

ORDERED this 10th day of March, 2008

BY THE COURT:

s/ Joseph F. Bataillon
JOSEPH F. BATAILLON, CHIEF JUDGE
United States District Court